



MAR 12 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.  
Fourth Floor  
1755 Jefferson Davis Hwy  
Arlington, VA 22202

In re Application of	:	
WAKABAYASHI, Hidehiko, et al.	:	
Application No.: 09/926,180	:	DECISION ON
PCT No.: PCT/JP00/02179	:	
Int. Filing Date: 04 April 2000	:	PAPERS
Priority Date: 20 April 1999	:	
Attorney's Docket No.: 213233US0PCT	:	UNDER 37 C.F.R. 1.42
For: FLAVOR PRECURSOR COMPOSITION	:	
AND METHOD FOR RELEASING THE	:	
FLAVOR COMPONENT	:	

This decision is in response to applicants' "Renewed Submission Under 37 CFR 1.42," filed 25 February 2002.

### BACKGROUND

On 04 April 2000, applicants filed international application PCT/JP00/02179, which claimed a priority date of 20 April 1999 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 26 October 2000.

A Demand electing the United States was filed with the International Preliminary Examining Authority on 13 October 2000. The election was made prior to the expiration of the nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 22 October 2001 (20 October 2001 was a Saturday).

On 19 September 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, the fee for filing the declaration later than 30 months and an English translation of the international application.

On 10 October 2001, applicants submitted a declaration signed by three of the inventors and by four heirs of deceased inventor Kyousuke Ishiguro.

On 24 October 2001, prior to the matching of the 10 October 2001 submission with the application file, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors was required. This Notification set a two month extendable period for reply.

On 05 November 2001, applicants filed, "Response to Notification of Missing Requirements," stating that applicants had filed a declaration on 10 October 2001, supplying a copy of the postcard receipt and a copy of the declaration as filed.

On 03 January 2002, the Office mailed Decision On Papers Under 37 CFR 1.42, refusing the request for status under 37 CFR 1.42.

On 22 February 2002, applicants filed "Renewed Submission Under 37 CFR 1.42," accompanied by, *inter alia*, a translation of the family records and a statement by the heirs.

### DISCUSSION

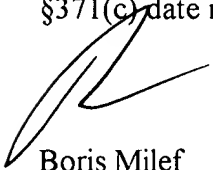
The declaration submitted on 10 October 2001 was not in compliance with 37 CFR 1.42, because though indicating that Minori Ishiguro, Tatsuya Ishiguro, Shouji Ishiguro and Youei Ishiguro were joint heirs, it did not indicate that they were all of the heirs of Kyousuke Ishiguro or that they were collectively the legal representative of the estate. Applicants were requested to certify that the heirs signing on behalf of the deceased inventor were all of the heirs.

The 22 February 2002 submission satisfies this requirement. This submission is construed as an indication that a legal representative has not been appointed nor is one required to be appointed by applicable law, and thus, the heirs are signing as the legal representative of the estate. See MPEP 409.01(d). If this interpretation is incorrect, applicants are required to promptly notify the Office of such and to submit a declaration properly executed by the legal representative of the deceased inventor in response to the decision.


### CONCLUSION

For the above reasons, the request for status under 37 C.F.R. 1.42 is GRANTED.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification of Acceptance (Form PCT/DO/EO/903) and filing receipt. The 35 U.S.C. §371(c) date is 10 October 2001.



Boris Milef  
PCT Legal Examiner  
PCT Legal Administration



Erin M. Pender  
Attorney Advisor  
PCT Legal Administration

Telephone: 703-305-0455  
Facsimile: 703-308-6459